

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
MOHAMMAD SAAILI SHIBIN,)
a/k/a "Khalif Ahmed Shabin,")
a/k/a "Mohammad Ali,")
a/k/a "Ali Jama,")
Defendant.)
CRIMINAL CASE NO.
2:11cr33

TRANSCRIPT OF PROCEEDINGS
(Testimony of Heiko Kretschmer)

Norfolk, Virginia
April 19, 2012

BEFORE: THE HONORABLE ROBERT G. DOUMAR,
United States District Judge, and a jury

APPEARANCES:

UNITED STATES ATTORNEY'S OFFICE
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I N D E X

3	ON BEHALF OF THE GOVERNMENT:	Direct	Cross	Red.	Rec.
4	H. Kretschmer	3	35	--	--

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* * * * *

3 MR. CASEY: The government would call Heiko
4 Kretschmer, please, Your Honor.

5 HEIKO KRETSCHMER, called as a witness, having been
6 first duly sworn, testified as follows:

DIRECT EXAMINATION

8 | BY MR. CASEY:

9 Q. Sir, could you please state your name for the record?

10 A. My name is Heiko Kretschmer.

11 Q. And where are you from?

12 A. I'm from Germany.

13 Q. What do you do for a living?

14 A. Can you repeat the question?

15 Q. What do you do for a job?

16 A. I'm a master mariner on m

17 Q. How long have you been in the merchant ma

18 A. I'm now 30 years in the marine business.

19 Q. Where are you currently employed? Who do

20 currently?
21 I am. I am not. I am not. I am not. I am not.

22 | ShipCare Management.

operations manager for ShipCare?

... my duties are the operation of day-to-day activities of

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1 our fleet, all safety-related matters, security guidelines
2 and commercial issues as well.

3 Q. Can you tell us what your educational background is?

4 A. I was -- for 16 years I started my career as a cadet on a
5 training ship. Afterwards I was five years an able seaman on
6 merchant vessels. After that I went to the marine college
7 for navigation and technical matters, and I get my license as
8 a duty officer and also as master mariner.

9 Q. Have you achieved any rank during the course of your
10 profession?

11 A. I started as third mate, and later second mate, and I get
12 promoted to chief mate and then to master mariner.

13 Q. And is a master mariner also known as a captain?

14 A. Yes, it's a captain.

15 Q. How long have you been a captain?

16 A. I'm now captain for 12 years.

17 Q. Where is your company located?

18 A. The company is located in Germany, Oldenburg.

19 Q. And there may be times when I ask you to speak a little
20 bit more slowly for the benefit of the jury.

21 A. Okay.

22 Q. As an operations manager for ShipCare how many ships are
23 you responsible for?

24 A. I'm responsible for 30 tankers.

25 Q. And of these 30 tankers can you tell us what types of

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1 tankers they are?

2 A. We have chemical tankers and oil tankers.

3 Q. And what's the difference between a chemical tanker and
4 an oil tanker?

5 A. A chemical tanker is carrying sophisticated chemicals,
6 any kind, and an oil tanker is just carrying oil products.

7 Q. Okay. Can a chemical tanker also carry oil?

8 A. That's correct.

9 Q. And does a chemical tanker have more sophisticated
10 equipment in order to carry both chemicals and oil?

11 A. That's correct, sir.

12 Q. Can you tell us the size of these ships, the range of
13 size on these ships that you're responsible for?

14 A. The size of the ship is between 20,000 tons and
15 8,000 tons.

16 Q. And when you say "between 20,000 tons and 8,000 tons"
17 what are you referring to?

18 A. This is referring to the maximum capacity of cargo
19 tonnage the vessel can take.

20 Q. As part of your responsibilities are you also responsible
21 for making sure that these tankers are crewed adequately?

22 A. That's correct.

23 Q. What is the usual tour of duty for crew members?

24 A. For officers it's four months, and for the rest of the
25 crew, six months.

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1 Q. How many crew members are typically on a voyage?

2 A. It all depends on the size of the vessel. Let's say like
3 for the Marguerite we have our crew between 19 and 22 crew
4 members.

5 Q. Is the Marida Marguerite one of the ships for which
6 you're responsible?

7 A. Yes.

8 Q. Who owns the Marida Marguerite?

9 A. Marida Marguerite is owned by ship's bank and various
10 shareholders. She's a wholly independent shipping
11 corporation.

12 Q. So the owners are the investors in the corporation?

13 A. Yes.

14 Q. And who manages the ship, the -- tell us how the Marida
15 Marguerite would get assigned to go on a voyage to carry
16 cargo from point A to point B.

17 A. My company is responsible for the technical management of
18 Marida Marguerite, and this is our duty, is to bring -- to
19 make voyage charter parties for the ship to carry any kind of
20 cargo, handle safety equipment with the crew, which is
21 capable to do the job on board, and then also our safety
22 guidelines have to be in place, security matters, and of
23 course the technical management for all the machinery and
24 equipment on board. For this we are also responsible for
25 taking care of.

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1 Q. For the Marida Marguerite can you tell us was this a
2 chemical tanker?

3 A. It is a chemical tanker.

4 Q. What size chemical tanker is it?

5 A. She is the size of about 30,000 tons.

6 MR. CASEY: Madam Clerk, could I ask you to
7 unpublish.

8 BY MR. CASEY:

9 Q. I'm going to hand you an exhibit, Exhibit 1-2 A. I ask
10 you if you recognize that exhibit?

11 A. This is our tanker Marida Marguerite.

12 Q. All right. Have you been on that ship -- how many times
13 have you been on that ship over the course of your career?

14 A. Approximately eight to ten times I already was on board
15 this ship.

16 Q. Does that fairly and accurately depict the Marida
17 Marguerite as it looked in 2010?

18 A. This is correct. She looked like that in May, 2010, yes.

19 MR. CASEY: Your Honor, I would ask that the
20 Exhibit 1-2 A -- I move to offer that into evidence at this
21 time and ask that it be published.

22 THE COURT: Government's Exhibit 1-2 A is admitted
23 in evidence, and it may be published.

24 (The exhibit was admitted into evidence.)

25 BY MR. CASEY:

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1 Q. Captain Kretschmer, can you tell us what the freeboard
2 is?

3 A. The freeboard is the distance from the water level to the
4 main deck.

5 Q. Okay. And looking at Exhibit 1-2 A, where is the main
6 deck?

7 A. The main deck you can see is the first deck where all --
8 where all the cargo tanks are openings. This is the main
9 deck where you can also see the railing, yeah.

10 Q. Is that in the middle of the ship?

11 A. It's in the middle of the ship, yeah.

12 Q. Does that appear to be the lowest point to the water?

13 A. Yes.

14 THE COURT: Would you point it out in red and let's
15 make sure everybody understands. There's no argument about a
16 main deck, it's just the definition. Could you point it out
17 in red?

18 BY MR. CASEY:

19 Q. Does that arrow show where the freeboard is?

20 A. That's correct, sir.

21 Q. Now, when the tanker is loaded with cargo, when it's
22 fully loaded, what happens to the freeboard?

23 A. When the ship is fully loaded then the freeboard, for
24 example for the Marida Marguerite, will be approximately only
25 four feet.

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1 Q. So it lowers down closer to --

2 A. The more cargo you load the freeboard will be less, yeah.

3 Q. Can you tell us why -- why the design of the tanker
4 freeboard is this low?

5 A. The tankers are carrying liquid cargoes, and this is --
6 because of the stability of containers the tankers are
7 designed like that, with the cargo ties. That's 80 percent
8 of the tanks are under the water level to avoid movement of
9 the liquids and to get stability problems. That's why
10 tankers are designed like that, and that's the reason tankers
11 have a very low freeboard in loaded condition.

12 Q. And how many tanks that would carry liquid cargo are on
13 the Marida Marguerite?

14 A. The Marida Marguerite is 14 cargo tanks.

15 Q. And where are they located?

16 A. They are located all on the main deck from number one
17 port starboard up to seven port starboard.

18 Q. I think you indicated this is the lower part of the ship.
19 Is that correct?

20 A. Correct, lower part of the ship.

21 Q. Okay. How much is the Marida Marguerite worth?

22 A. Can you repeat?

23 Q. Yeah. How much is the ship itself -- without cargo, how
24 much is the ship, the Marida Marguerite, worth?

25 A. The value is about approximately 31 million USD.

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1 Q. And as part of your responsibilities do you handle the
2 insurance for the Marida Marguerite?

3 A. Correct.

4 Q. What types of insurance did the Marida Marguerite carry?

5 A. We have the hull machinery insurance, which is covering
6 all the hull, the body of the ship itself and all the
7 machinery and equipment. And we have the P&I coverage --
8 which is called protective and indemnity -- this is in
9 regards to oil pollutions, personal injuries, death on board,
10 when people die on board, or when the ship is a total loss
11 then also the ship is covered for this purposes, with the
12 value of \$1 billion.

13 Q. Are there times where there is insurance -- when you
14 carry insurance for possible piracies?

15 A. That's correct. Whenever a ship passes a high-risk area
16 then we make an additional insurance called K&R, kidnapping
17 and ransom insurance.

18 Q. If the ship has piracy insurance or kidnapping and ransom
19 insurance what services and benefits does the insurance
20 company provide in the event of a piracy?

21 A. Of course the ship is covered for a certain amount of the
22 ransom amount, and then the -- we get the service providing
23 for helping in negotiating, assistance in negotiating in a
24 possible kidnapping case. Yeah, that's the main focus for
25 that.

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1 Q. Does the insurance company also -- in the event of a
2 kidnapping or hijacking do they provide negotiating advisors?

3 A. Yes.

4 Q. And what are the duties of those folks?

5 A. The duties are to assist the company to negotiate with
6 possible hijackers.

7 Q. And these folks have experience, prior experience, with
8 hijacking?

9 A. Very professional, yeah.

10 Q. I'd like to direct your attention now to May of 2010.
11 Was the Marida Marguerite transporting cargo?

12 A. She was transporting cargo, yes.

13 Q. What was the voyage?

14 A. The voyage was from the West Coast -- in two ports, from
15 West Coast India, which is called Mumbai or Pantow, to the
16 north to the Netherlands.

17 Q. And what kind of cargo was the Marida Marguerite
18 carrying?

19 A. She had two kinds of cargo on board; castor oil -- it's a
20 vegetable oil -- and she had benzene.

21 Q. I'd like to ask you a little bit about benzene. What
22 type of a chemical is benzene? What's it used for?

23 A. Benzene is an additive which may be used for gasoline,
24 for the end customer, consumer, you know, of gasoline, like
25 for fuel stations, for cars, for aircrafts.

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1 Q. Now, does this benzene, this additive for gasoline, does
2 it -- is it flammable?

3 A. It's flammable and explosive. You must take special care
4 with this type of chemical.

5 Q. What type of special handling is required?

6 A. You have to assure that the atmosphere in the tanks are
7 nonhazardous. That means there not be any explosive
8 atmosphere in the tank and to keep the oxygen content of the
9 atmosphere in the tanks to an absolute low limit. This you
10 can arrange using an inner gas system which is a special gas
11 which we pump into the tank to get out all the oxygen. So
12 then you have an atmosphere which is safe and no more
13 explosive -- you know, no more explosive atmosphere is there
14 in the tank.

15 Q. At which port did the Marida Marguerite pick up the
16 benzene?

17 A. It was in -- if I remember, it was in Mumbai first.
18 Mumbai, yes.

19 Q. At which port did the Marida Marguerite pick up the
20 castor oil?

21 A. In Kandla.

22 Q. And where is that located?

23 A. It's on the northwest coast of India.

24 Q. So after picking up the castor oil from the northwest
25 coast of India what was the next location that the Marida

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1 Marguerite was -- as part of the voyage?

2 A. As part of the voyage you have to pass through the Gulf
3 of Aden, towards the Red Sea, through the Suez channel, and
4 after the Suez channel passing the Mediterranean Sea, passing
5 Gibraltar, going up to the northwest of the port of Antwerp
6 and Rotterdam.

7 Q. How many people were crewing on the Marida Marguerite as
8 it passed through the Gulf of Aden?

9 A. 22 crew members been on board.

10 Q. I'm sorry?

11 A. 22 crew members been on board.

12 Q. Do you recall what nations they were from?

13 A. There were 19 Asians, two Bangladeshi and one Ukrainian.

14 Q. And the captain, where was he from?

15 A. The captain was from India.

16 Q. Now, this run through the Gulf of Aden ultimately to the
17 Netherlands, is this a regular shipping route?

18 A. Regular shipping route, international shipping route.

19 Q. Is this the type of -- I mean, of the 30 ships that you
20 oversee is this a route that they would take from India to
21 Europe?

22 A. Yes, always.

23 Q. Are these international waters?

24 A. International waters.

25 Q. Is that also known as the high seas?

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1 A. We call it high seas -- you know, when the ship leaving
2 the 12 nautical miles from the shore, from the nearest shore,
3 then we call it high seas, yeah.

4 Q. Now, is there a dangerous part of that voyage from India
5 to the Netherlands?

6 A. In May, 2010, the Gulf of Aden was declared already as a
7 high-risk area. For that reason we already prepared the ship
8 when the voyage was declared and was -- charter party was
9 signed. Then we already made the K&R insurance, and then we
10 also make special training for the crew.

11 Q. And just to -- for my benefit, the K&R insurance, is that
12 kidnapping and ransom?

13 A. Kidnapping and ransom, yeah.

14 In the shipping business we're working a lot with
15 abbreviations, you know, so K&R is kidnapping and ransom.

16 Q. I'll slow you down from time to time, and I would ask you
17 to repeat things for the benefit of the jury to help with
18 your accent.

19 So in getting the K&R insurance or the piracy
20 insurance -- in addition to obtaining that, what other
21 preparations did you authorize on behalf of the ship?

22 A. We instructed the ship at once to make special training
23 of crew. We instructed the master to follow safety and
24 security guidelines as to our ship security plan. And we put
25 passive defense equipment on board, like razor wires, rigging

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1 fire hoses, preparing dummies, and locking all doors from
2 inside to keep the accommodations completely locked.

3 Q. What's the point of the -- what's the point of the razor
4 wire?

5 A. I mean, it's a good protection, I mean, you know, maybe
6 from the military background. It's very difficult to climb
7 over a razor wire, so -- and in this time, in 2010, this was
8 still effective equipment to use on board the ships.

9 Q. And what are the point of the fire hoses?

10 A. Fire hoses -- let's say they have more -- when you rig
11 fire hoses, especially through the night, you put on the fire
12 pump. And spraying the water around the ship with high
13 pressure, this already gives possible pirates the -- it shows
14 that the crews are alerted, that the crew is all the time on
15 duty, on watch, and that's something, you know -- it's not
16 that big a help, maybe, if pirates were to come on board, but
17 it shows who is ready to prepare for this.

18 Q. And I think you mentioned you also stationed dummies
19 around the ship.

20 A. Yes.

21 Q. And those are manequins or -- what is the point of the
22 dummies?

23 A. The dummies is a point that you can see maybe from a long
24 distance that people is on watch.

25 Q. All right. In addition to all of that, I mean, as a

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1 regular course of your company does your company track your
2 ships when they're on a voyage?

3 A. Yes, all the time. We have a satellite position tracking
4 system.

5 Q. So the satellite position tracking system, is this
6 industry standard?

7 A. Industry standard.

8 Q. What does it measure, or what does it track?

9 A. It's tracking the position, the speed, the course and the
10 weather conditions in this particular position.

11 Q. Now, why do you track your ships?

12 A. We track the ship for overseeing the track of the ship,
13 and especially the speed, and to identify ETAs for the ships.

14 Q. And just let me stop you there. "ETA" stands for
15 estimated time of arrival?

16 A. Estimated time of arrival, yes.

17 Q. Okay. And are you able to monitor the location of your
18 ship through this tracking system?

19 A. Correct.

20 Q. Without an emergency, in the usual course of things, what
21 is the regular time interval for which you would be tracking
22 your ship?

23 A. We get the position report every 12 hours.

24 Q. I'm sorry?

25 A. You get the position report every 12 hours.

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1 Q. Okay.

2 A. That's regular.

3 Q. So a report is generated every 12 hours. Is that
4 correct?

5 A. Every 12 hours.

6 Q. If an emergency is reported would you have the ability to
7 adjust the time intervals for tracking?

8 A. We can adjust the tracking time to every hour.

9 Q. In May, 2010, were you tracking the Marida Marguerite?

10 A. Yes.

11 Q. And despite the safety precautions that you just
12 testified to, did your company learn at some point that the
13 Marida Marguerite had been hijacked?

14 A. We already changed the tracking to six hours, every six
15 hours, when she come closer to the position of the meeting
16 point for the convoy.

17 Q. All right. Let's talk about -- let's back up.

18 A. Yeah.

19 Q. Describe what a convoy is.

20 A. A convoy is a certain amount of ships going on the naval
21 ship guards passing Gulf of Aden, passing this high-risk
22 area.

23 Q. So as you pass through the Gulf of Aden?

24 A. Yes.

25 Q. Do ships meet up with other ships protected by naval

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1 vessels?

2 A. Correct. There are different convoys for different kinds
3 of speed. There are ships that have a speed of, for example,
4 20 knots, ships that have a speed of 15 knots, and ships that
5 have a speed of 13 or 12 knots, and for each of these speeds
6 there's a convoy.

7 Q. Directing your attention to May 8th, did you learn that
8 the -- on May 8th did you learn that the Marida Marguerite
9 had been hijacked?

10 A. We received a call on our emergency phone -- one of my
11 colleagues picked up the phone, and we received a call from
12 the master of the ship, of the Marida Marguerite, that he is
13 under attack of pirates.

14 Q. Approximately what time was this?

15 A. Approximate time, about 1500.

16 Q. 1500 is --

17 A. 3:00 p.m. local time.

18 Q. All right. And what did your company do in response?

19 A. We could not give any response to the master because he
20 immediately switched off the phone again or he hanged up, you
21 know. We immediately called our local authorities, German
22 police.

23 Q. Before we get to that, were you tracking the ship at the
24 time?

25 A. Yeah. We're tracking the ship, yeah.

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1 MR. CASEY: Madam Clerk, could I publish?

2 BY MR. CASEY:

3 Q. I'd like to show you what's been marked government
4 Exhibit 1-2 B, 1-2 C and 1-2 D.

5 First, can you tell us what Exhibit 1-2 B is?

6 A. On this picture 1-2 B we can already see that the ship
7 left the truck -- left the course, changed the course already
8 to southwest.

9 Q. Is this a chart from your satellite tracking system of
10 the location of the Marida Marguerite --

11 A. Yes.

12 Q. -- within an hour --

13 A. Within an hour.

14 Q. Excuse me. Just for the benefit of the jury, and
15 especially for the court reporter, if you could just let me
16 finish the question, and I'll also ask that you keep your
17 voice up.

18 Exhibit 1-2 B, is this a fair and accurate depiction
19 of the satellite tracking systems report or chart at the time
20 that the Marida Marguerite was within an hour of the time
21 that the Marida Marguerite was hijacked on May 8th, 2010?

22 A. Yes, that's correct.

23 Q. All right. I'd like to also show you Exhibit 1-2 C.

24 THE COURT: Do you seek to get 1-2 B into evidence?

25 MR. CASEY: For the benefit of time I was going to

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1 move it all at the same time. I can do it however you would
2 like.

3 THE COURT: Do it however you like.

4 MR. CASEY: All right. Your Honor, I move to admit
5 Exhibit 1-2 B at this time.

6 (The exhibit was admitted into evidence.)

7 BY MR. CASEY:

8 Q. Captain Kretschmer, Exhibit 1-2 C -- can you tell us what
9 that is?

10 A. Picture 1-2 C is also a report, and on picture 1-2 C you
11 can identify that the ship arrived in Somali waters and
12 dropped anchor.

13 Q. What date was that report --

14 A. The vessel arrived on the 11th of May in the early hours,
15 early morning hours.

16 Q. So this would be three days after the --

17 A. Yeah.

18 Q. And Exhibit 1-2 D?

19 A. Picture 1-2 D is just -- yeah, there is the -- you can
20 see the position of Marida Marguerite.

21 Q. When it reached -- is it the position of the Marida
22 Marguerite on or about May 11th, when it reached point of
23 anchor just off the coast of Somalia?

24 A. This is the position of the Marida Marguerite when she
25 arrived on the 11th of May Somali waters and dropped anchor.

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1 Q. Thank you.

2 MR. CASEY: Your Honor, at this point I move to
3 admit 1-2 B, 1-2 C and 1-2 D and ask they be published
4 accordingly.

5 THE COURT: Exhibits 1-2 A, 1-2 B, 1-2 C and 1-2 D
6 are all admitted.

7 MR. CASEY: Thank you.

8 THE COURT: 1-2 A has already been admitted.

9 (The exhibits were admitted into evidence.)

10 THE COURT: Does the square indicate where the ship
11 is relative to the particular water? Does the square that's
12 shown on these pictures show where the ship is?

13 THE WITNESS: It shows where the ship is, Your
14 Honor. You can see on the green, the green spots, these are
15 the -- this is the position of the ship when she gets
16 tracked, every hour.

17 BY MR. CASEY:

18 Q. Looking at 1-2 B, can you tell us approximately when this
19 picture was taken?

20 A. Within an hour after the hijacking.

21 Q. All right. It appears the green -- and as the Court
22 asked, the Marida Marguerite is the green square. Is that
23 correct? On the chart the picture is the --

24 A. Yes, the green squares are the Marida Marguerite.

25 Q. All right. And what is this line coming from the top

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1 right corner down diagonally to the left -- lower left
2 corner? What does that line represent?

3 A. The largest line representing the actual course of the
4 ship.

5 Q. Okay.

6 A. Or the course which the ship already passed.

7 Q. And that's the prior course on the voyage.

8 It appears at the point where the square is just a
9 little up to the right -- it appears that the course has
10 changed. What does that represent? It appears that the
11 course now appears to have taken a sharper turn down to the
12 left. What does that represent?

13 A. That represent -- that shows to us that the call from the
14 master was correct and the ship got hijacked.

15 Q. All right. Does it appear that the course has changed?

16 A. Yes, the course has changed, because it's very unusual to
17 go this course, because the meeting point for the convoy is
18 completely opposite, on the opposite direction.

19 Q. All right. Where was the Marida Marguerite -- where,
20 approximately, was the ship when it was hijacked in relation
21 to the nearest country?

22 A. The nearest country site for the point of hijacking was
23 approximately 160 nautical miles from the nearest shoreline.

24 Q. In which country was that?

25 A. It's both countries Yemen and Oman. Both countries were

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1 more or less the same distance.

2 Q. And about how far from Somalia was the Marida Marguerite?

3 A. More than 200 miles from this nearest island.

4 Q. And is that area you just described there in
5 international waters?

6 A. They're in international waters.

7 MR. CASEY: Your Honor, at this point the parties
8 have agreed to a stipulation, and with the Court's permission
9 I will read that stipulation.

10 "It is hereby stipulated and agreed among the
11 parties that on May 8, 2010, when the merchant vessel Marida
12 Marguerite was seized by certain individuals, the Marida
13 Marguerite was at the time in an area on the high seas. In
14 other words, the Marida Marguerite was at the time of its
15 seizure in international waters more than 12 nautical miles
16 from the coast of any nation.

17 MR. CASEY: Mr. Samuels, if I could get 2 C.

18 BY MR. CASEY:

19 Q. I'm going to show you Exhibit 2 C.

20 Can you tell us what we're looking at on the screen?
21 First of all, when is this -- when is this chart taken, what
22 date?

23 A. The date of this chart was taken on the 11th of May,
24 2010.

25 Q. All right. And what does it depict?

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1 A. It shows that the ship Marida Marguerite was proceeding
2 to Somali waters and to dropping the anchor in this position
3 about four miles from shore. The nearest city we found out
4 on the map was Caracas, and this was the final -- the final
5 end of the voyage for the Marida Marguerite.

6 Q. So from the point of May 8th, when you found out it was
7 hijacked, to this point, May 11th, this was the path that the
8 Marida Marguerite took to its point of anchor?

9 A. Yes.

10 Q. Is that correct?

11 A. That is correct.

12 MR. CASEY: And, Mr. Samuels, could I get 2 D,
13 please.

14 BY MR. CASEY:

15 Q. Can you tell us what we're looking at with Exhibit 2 D?

16 A. 2 D is a bigger scale of 2 C. Here you can see a much
17 bigger scale of the position, the anchor position, of the
18 Marida Marguerite on the 11th of May, 2010, and you can also
19 see that she was dropping the anchor just on the shallow
20 water, because that's -- this is because of the anchor crown.
21 The anchor crowned at the depth of the water -- you know,
22 must be about 20 to 40 meters; otherwise, the ship cannot
23 drop anchor. So that was the reason she was proceeding very
24 close to the Somali coast.

25 Q. Looking at this picture here or this chart, Exhibit

H. Kretschmer - Direct

1 1-2 D, it appears to me there's some white color to the
2 right. There's a line sort of in a downward left diagonal,
3 and then there's a blue patch. Can you tell us what that is,
4 what the different colors represent?

5 A. The different colors means different depths of the water.
6 The white color shows that the depth of the water is maybe
7 about more than 50, 60, 80 meters, which is not good for drop
8 anchor. So in the blue, the blue -- the blue color area, you
9 can see the line, the black line, that shows that the water
10 depth changed, and you get to a shallow water cloud.

11 Q. Once you found out that the Marida Marguerite had been
12 pirated or hijacked on May 8th what steps did the company
13 take at that point?

14 A. Well, I mean, it was a big shock for everybody in the
15 office, and what we all done immediately was to call the
16 local police, call the insurance company, call the flag
17 state, and --

18 Q. What's the flag state?

19 A. The flag state is the state where the ship is registered.

20 Q. And where was the Marida Marguerite registered, what flag
21 state?

22 A. She was registered in the Marshall Islands.

23 Q. So you called the police, you called the insurance
24 company, you called the flag state. What else did you do?

25 A. We informed immediately our crewing office in Mumbai.

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1 Q. For what purpose?

2 A. To inform the -- all the family members of the crew, you
3 know.

4 Q. What steps were taken in the event of a -- to prepare for
5 a possible negotiation?

6 A. At this point we was in very close cooperation with the
7 insurance. They immediately provided us a negotiating team,
8 which arrived the day after, and then we take this matter all
9 up with this professional -- with the experts, you know.
10 Because from our side we never had such an experience in the
11 past, so this negotiating team arrived and together with the
12 German police started the process for negotiating.

13 Q. And who was the -- who had appointed the company
14 negotiator, the person that would be speaking on the phone to
15 whomever -- whichever pirate might call?

16 A. In the beginning it was Mr. Rajesh Chava.

17 Q. And is he somebody that's employed by ShipCare -- at the
18 time was employed by ShipCare?

19 A. At this time he was the DPA or the designated person for
20 such emergency matters. He was appointed by ShipCare.

21 Q. And he was the emergency officer for such
22 responsibilities?

23 A. Correct.

24 Q. And what was his -- what was his relationship? He was to
25 work with the advisors in developing strategy and that kind

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1 of thing?

2 A. He was working very close with this negotiating team, you
3 know, and they provided us what is the best strategy to
4 follow, yeah.

5 Q. Who would be the person that would communicate with the
6 pirates?

7 A. It was in the beginning Rajesh Chava.

8 Q. What other technical plans were made in order to record
9 or capture or contact communication with the pirates?

10 A. They bring all the recording equipment.

11 Q. Who did?

12 A. This negotiating team. We made -- we prepared an extra
13 room in our office only for this negotiation team, together
14 with our man, Mr. Chava. So they were sitting in this room
15 every day or the night, if there were some calls, and the
16 police bring equipment, also, for recording.

17 Q. How was your relationship -- how were the police
18 contacted?

19 A. We called our nearest police station, which is located
20 about 20 kilometers away from our office.

21 Q. What was the police response, the German police response?

22 A. Their response? That they would inform the LKA in
23 Hanover.

24 Q. What is the LKA? Is that the local police that had the
25 responsibility for investigating --

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1 A. It's the local police for the complete State of Lower
2 Saxony.

3 Q. And that was the area where your shipping company was
4 located?

5 A. Correct.

6 Q. Did the police show up at your company's offices?

7 A. They show up the same day and evening.

8 Q. And how long did they stay?

9 A. They stayed a couple of hours and came back the next
10 morning.

11 Q. Were they there basically every day in the beginning?

12 A. The first two or three weeks they was in the office every
13 day.

14 Q. Did you receive any contact from the -- communications
15 from the Marida Marguerite?

16 A. The first contact we received was on the 11th of May. We
17 get a call from the captain. He just called. He say that
18 they arrived anchor position in Somali waters and crew stood
19 safe and that's finished, and then he hang up.

20 Q. No communication with any kind of a negotiator or
21 anything like that at that point?

22 A. No.

23 Q. Okay. When was the next contact with the Marida
24 Marguerite?

25 A. The first contact we had with the pirates was on 17 of

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1 May.

2 Q. Now, others will testify about the details of these
3 negotiations, but I want to ask you a few general questions.

4 How long did the negotiation process take? From
5 May 17th until when?

6 A. The final agreement of negotiation was between 16 and 17
7 December, 2010.

8 Q. I'm sorry. 16th and 17th of December of 2010?

9 A. Yes.

10 Q. And over the course of that time how many company
11 negotiators did you use?

12 A. Two.

13 Q. Why did you change negotiators along the way?

14 A. Mr. Chava left the company at the end of July for
15 personal reasons, and then we called another colleague in.

16 Q. And you weren't dissatisfied with Mr. Chava at all?

17 A. No, just for personal reasons. He quit to change
18 companies.

19 Q. And who replaced Mr. Chava?

20 A. It was Mr. Stefan Nitsche.

21 Q. And where did Mr. Stefan Nitsche come from? Was he
22 employed by the company?

23 A. He was employed by our company, and he was a German
24 citizen.

25 Q. What was his prior job?

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1 A. His prior job was all crewing. He was a worker -- he was
2 our contact person in India for all crewing-related matters.

3 Q. And was he familiar with the families, the victims'
4 families, the hostage crews' families?

5 A. Yes. He was in the full picture, and during the
6 beginning he was in Mumbai. He was the contact for all the
7 family members. Later on we called him back to our office
8 and he nominated an Indian colleague in Mumbai to take over.

9 Q. Did the pirates use their own negotiators?

10 A. For me it's difficult to say that they're negotiators.
11 We just called them pirates. We cannot -- I cannot say if
12 it's called a negotiator. It was always people, a voice on
13 the phone.

14 Q. Did your company have any input into the selection of
15 these pirates that would communicate with your company
16 regarding ransom?

17 A. No.

18 Q. Did the pirates have any input into your choice --

19 A. No.

20 Q. -- of who you would use to speak on the phone back to the
21 pirates during these negotiations?

22 A. No.

23 Q. During the seven-and-a-half-month time period of this
24 hijacking and hostage negotiation, this hostage crisis, was
25 there any involvement by the United Nations or some mutually

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1 agreed upon third party to help resolve the crisis?

2 A. No.

3 Q. Just you and the pirates -- your company and the pirates?

4 A. Just our company and the pirates.

5 Q. During the negotiations did the pirates seem to have
6 information about the value of the ship and the cargo and the
7 company?

8 A. Yes, we was wondering; that the pirates had quite a lot
9 of very internal information about our company.

10 Q. Did you later learn where they obtained this information?

11 A. We learned that one of the crew, the second officer
12 Pandey, was giving all the information to the pirates because
13 he was working very close with them.

14 Q. During the course of the hostage crisis how did your
15 company and crewing agents keep the family up to date with
16 information?

17 A. We had -- every day we had -- every day was an update
18 phone call. Our person in charge in India every day gives a
19 statement to all family members. He played also a very good
20 role, was the key person with the families, and we also was
21 in contact with them. Every day we had a telephone meeting.

22 Q. You mentioned that around the 16th or 17th of December an
23 agreement was reached to pay ransom. How much was the amount
24 that was agreed by your company to pay?

25 A. Final agreement was five million U.S. dollars.

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1 Q. And did the -- was the ship released on the 16th or 17th
2 of December, 2010?

3 A. No. To make all the arrangements with the -- to arrange
4 the money and make the transport down to Africa we told the
5 pirates that we need at least approximately a week for --

6 Q. Describe the final ransom procedure.

7 A. After the agreement was done and the amount was confirmed
8 our managing director proceeded to Hamburg, together with the
9 police, to pick up the money from a bank. It was requested
10 by the parties to put -- to use water-tight bags and for each
11 five bags in total each bag was \$1 million USD. So they
12 picked up the bags with the money, bring it to the airport,
13 Hamburg, and give it to a plane, aircraft, and that's it.
14 Then the aircraft proceeded down to Africa.

15 Q. And then what happened after the plane -- did the plane
16 go and deliver the money?

17 A. No, the plane was going to Kenya, because in Kenya we had
18 a contact agent who made the arrangements to bring the money
19 to the Somali position.

20 Q. Tell us what happened then.

21 A. On the 27th of December small aircraft were starting from
22 Kenya with the ransom money, and they proceeded to the Marida
23 Marguerite and made two or three rounds over the ship. We
24 required -- our request was to bring all the crew on deck to
25 have a final accounting that everybody was still there, and

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1 after two or three rounds over the ship he dropped the money,
2 the bags, down to the water.

3 Q. And then what happened?

4 A. Many small boats, skiffs, coming and picking up the bags
5 and bringing them aboard the Marguerite.

6 Q. And at what point was the Marida Marguerite released?

7 A. We agreed that from the time the money is on board the
8 Marida Marguerite 24 hours later all pirates have to left the
9 ship. So on the 28th of December around noon time we get a
10 call that the last pirate left the vessel.

11 Q. That was the captain that called you and said that the
12 pirates were all gone?

13 A. The captain called us, yes.

14 Q. What happened then?

15 A. The ship prepared the engine, heaved up the anchor, and
16 leaving Somali waters. And when she left the Somali waters,
17 the 12 nautical miles out, a naval ship, U.S. naval ship,
18 came alongside and made a final search to confirm that there
19 were no more pirates on board. And after that we called the
20 tugboat which was already standing by in the position to
21 supply fuel to the ship, fresh water, provision and clothes
22 for the crew, because the pirates -- they stole everything
23 from the ship.

24 Q. Now, this \$5 million that was agreed upon, do you know
25 whether there was an extra amount requested by the pirate

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1 negotiator for his own -- for himself?

2 A. No, I cannot say nothing about that. Five million was
3 when they bring all these five bags on board they already
4 started opening two or three bags --

5 MR. BROCCOLETTI: Your Honor, I'm objecting to what
6 the crew reported to him later; it's hearsay -- please.

7 THE COURT: Objection sustained.

8 BY MR. CASEY:

9 Q. After the pirates left and the ship, the Marida
10 Marguerite, left Somali waters and met up with the U.S. naval
11 ship where did it go then?

12 A. We called the ship to proceed to so Salalah, which is a
13 port in Oman.

14 Q. What did you do?

15 A. When we give the order to the captain and the captain
16 reported the time of arrival, I myself prepared and also flew
17 down to Oman, together with the German police investigation
18 team.

19 Q. Okay. And did you travel to Oman?

20 A. Yes.

21 Q. Did you meet with the crew?

22 A. Yes.

23 Q. Do you know some of those crew members from over the
24 course of your time?

25 A. There were six or seven crew members I already was

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1 | knowing.

2 Q. How long have you known Oleg Dereglazov?

3 A. Oleg Dereglazov I know already from five or six years.

4 MR. CASEY: Your Honor, if I may just have a minute.

(There was a pause in the proceedings.)

6 MR. CASEY: Thank you, Your Honor. I have no
7 further questions.

CROSS-EXAMINATION

9 BY MR. BROCCOLETTI:

10 Q. Very simply, sir, with respect to the money that was
11 taken from the bag to use as ransom, you had prerecorded the
12 serial numbers, correct?

13 A. That's correct.

14 Q. And in an attempt to be able to locate those funds at a
15 later point, if they were used, or recover them, correct?

16 A. That's correct, yes.

17 Q. Thank you very much.

18 THE COURT: Anything else?

19 MR. CASEY: No, thank you, Your Honor.

20 THE COURT: You are instructed, sir, not to discuss
21 your testimony with anyone until this case is complete, at
22 which time you're free to discuss it with anyone you like.

23 MR. DEPADILLA: Your Honor, may this witness be
24 excused?

THE COURT: He may be excused.

1 MR. DEPADILLA: Thank you, Your Honor.
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12 CERTIFICATION
13
14 I certify that the foregoing is a correct transcript
15 of an excerpt from the record of proceedings in the
16 above-entitled matter.
17
18
19
20 s/s
21 Heidi L. Jeffrey
22
23 July 24, 2012
24 Date
25